

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ABS GLOBAL, INC.,

Plaintiff/Counterclaim Defendant,

v.

INGURAN, LLC,

Defendant/Counterclaimant/Third-Party Plaintiff,

and

XY, LLC,

Intervening Defendant/Counterclaimant/Third-Party Plaintiff,

v.

GENUS PLC,

Third-Party Defendant.

ORDER

14-cv-503-wmc

Having reviewed ABS's corrected amended proponent deposition designations (dkt. #631), as well as the parties' additional briefing with respect to Cynthia Ludwig and James Wood, the court makes the following rulings as to witnesses Ben Verwer, Kenneth Michael Evans, Ryan Christensen, James Wood and Cynthia Ludwig. The approved designations may be presented to the jury unless the witness is available to testify in person. **ABS shall remove all objections and any other asides or discussions between counsel and/or with the court reporter, even where not noted by the court in its rulings. This completes all designations of witnesses ABS indicated it would use at trial.**

Deposition of Ben Verwer (May 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 5, line 10 to page 5, line 13					
Page 5, line 17 to page 5, line 25					
Page 6, line 2 to page 6, line 19					
Page 6, line 23 to page 6, line 25					
Page 7, line 2 to page 7, line 3					
Page 7, line 14 to page 7, line 21					
Page 8, line 11 to page 8, line 25					
Page 9, line 2 to page 9, line 9					
Page 9, line 23 to page 9, line 25					
Page 10, line 2 to page 10, line 25					
Page 11, line 2 to page 11, line 12					
Page 12, line 9 to page 12, line 25					
Page 13, line 2 to page 13, line 4					
Page 13, line 21 to page 13, line 25					
Page 14, line 2 to page 14, line 16					
Page 15, line 10 to page 15, line 15					

Deposition of Ben Verwer (May 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 16, line 3 to page 16, line 6					
Page 19, line 2 to page 19, line 14					
Page 19, line 22 to page 19, line 25					
Page 20, line 2 to page 20, line 4					
Page 20, line 8 to page 20, line 25					
Page 21, line 11 to page 21, line 16		21:23-25			
Page 22, line 2 to page 22, line 25					
Page 23, line 2 to page 23, line 15					
Page 25, line 4 to page 25, line 25					
Page 26, line 2 to page 26, line 4					
Page 26, line 8 to page 26, line 25					
Page 27, line 2 to page 27, line 14					
Page 31, line 23 to page 31, line 25					
Page 33, line 9 to page 33, line 17					
Page 33, line 22 to page 33, line					

Deposition of Ben Verwer (May 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
25					
Page 34, line 2 to page 34, line 6					
Page 34, line 13 to page 34, line 15	FRE 801				Overruled
Page 34, line 24 to page 34, line 25					
Page 35, line 2					
Page 35, line 23 to page 35, line 25					
Page 36, line 5 to page 36, line 14					
Page 36, line 22 to page 36, line 25					
Page 37, line 2 to page 37, line 10	FRE 801				Overruled
Page 38, line 14 to page 38, line 25	FRE 801				Overruled
Page 39, line 2 to page 39, line 23	FRE 801				Sustained as to 39:11-23; otherwise overruled
Page 40, line 15 to page 40, line 25	FRE 602				Sustained
Page 41, line 2					Because the court sustains the objection to the question at 40:25, 41:2 is also excluded.

Deposition of Ben Verwer (May 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 41, line 6 to page 41, line 25	FRE 801; FRE 602				Sustained
Page 42, line 2 to page 42, line 16	FRE 602				Sustained
Page 42, line 20 to page 42, line 25					
Page 43, line 2 to page 43, line 25	FRE 801; FRE 602				Overruled
Page 44, line 2 to page 44, line 20	FRE 801	44:21-45:5			Overruled
Page 52, line 10 to page 52, line 25					
Page 53, line 2 to page 53, line 5					
Page 53, line 9 to page 53, line 19					
Page 119, line 2 to page 119, line 14					
		59:5-10			Counter-designations will be included.
		59:23-60:16			
		61:5-64:11			
		65:14-66:6			
		66:9-66:23			
		66:25-68:14			
		68:21-69:23			
		74:18-75:6			
		76:3-77:8			
		86:25-88:6			
		88:19-89:3			

Deposition of Ben Verwer (May 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
		91:21-92:15			
		97:20-98:19			
		99:23-100:5			
		100:11- 101:3			
		101:5-6			
		101:18-21			
		102:9-21			
		102:23- 103:8			
		103:11-18			
		110:7- 111:16			
		117:11-14 117:16-18			
		118:19-22			
		125:22- 127:20			
		131:6-12			
		132:10- 133:5			
		133:21-22			

Deposition of Kenneth Michael Evans (August 19, 2015)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter-Counter Designation	Ruling
Page 7, line 6 to page 7, line 11					
Page 7, line 18 to page 7, line 20					
Page 96, line 16 to page 96, line 25					
Page 97, line 2 to page 97, line 25					
Page 98, line 2 to page 98, line 20					
		99:24-100:14			
		112:18-113:5	The counter-designated objection of counsel at 112:21 is not evidence and should not be played for the jury.		Sustained
		113:17-114:8			

30(b)(6) Deposition of Inguran, LLC and XY, LLC by Kenneth Michael Evans (August 19, 2015)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 20, line 18 to page 20, line 22	FRE 701/704; asks for legal conclusion; improper attorney testimony; FRE 106; attorney narrative				Overruled
Page 21, line 4 to page 21, line 12	FRE 701/704; asks for legal conclusion; improper attorney testimony; FRE 106; attorney narrative				Overruled
Page 21, line 14 to page 21, line 25					
Page 22, line 2 to page 22, line 6	Compound				Sustained as to 22:4-6; otherwise overruled
Page 22, line 8 to page 22, line 13					Because the court sustains the objection to the question at 22:4-6, 22:8 is also excluded.
Page 25, line 25					
Page 26, line 2 to page 26, line 3					
Page 26, line 6 to page 26, line					

30(b)(6) Deposition of Inguran, LLC and XY, LLC by Kenneth Michael Evans (August 19, 2015)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
10					
Page 26, line 12 to page 26, line 16		26:17-19	In fairness, under FRE 106, the jury should hear 26:23-25 as well as the counter-designated testimony.	26:23-25	Overruled; the counter-counter designation will not be included, but 27:2 will be included
Page 27, line 18 to page 27, line 25	Lacks foundation; lacks predicate to the question; ambiguous; FRE 106				Overruled
Page 28, line 2 to page 28, line 8					
Page 28, line 10 to page 28, line 12		28:13-17 28:19-20			

30 (b)(6) Deposition of Inguran, LLC and XY, LLC by Ryan Christensen (August 27, 2015)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 7, line 21 to page 7, line 25					
Page 8, line 2 to page 8, line 8					
Page 10, line 5 to page 10, line 18					
Page 14, line 21 to page 14, line 25					
Page 15, line 2					
Page 16, line 7 to page 16, line 19					
Page 16, line 24 to page 16, line 25					
Page 150, line 12 to page 150, line 16	701/704; calls for legal conclusion	150:17-151:11			Overruled; the counter-designation will be included

Deposition of James C.S. Wood (June 3, 2015)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter- Counter Designation	Ruling
Page 5, line 14 to page 5, line 25					Because the court sustains the objections to the designations, all designations and counter-designations are excluded
Page 6, line 1 to page 6, line 6					
Page 206, line 14 to page 206, line 25					
Page 207, line 1 to page 207, line 13	FRE 701				
Page 214, line 16 to page 214, line 21	FRE 701				
Page 214, line 23	FRE 701				
Page 215, line 2 to page 215, line 25	FRE 701				
Page 216, line 1 to page 216, line 2					
Page 216, line 12 to page 216, line 24	FRE 701				
Page 220, line 20 to page 220, line 24	FRE 701				
		216:25-217:20			
		235:12-16			
		246:19-247:13			
		247:16-248:24			
		249:4-10			

Deposition of Cynthia L. Ludwig (March 9, 2016)					
ABS/Genus Initial Designation	ST/XY Objection	ST/XY	ABS/ST Objection	ABS/Genus Counter-Counter Designation	Ruling
Page 6, line 11 to page 6, line 16					Because the court sustains the objections to the designations based on lack of foundation, all designations are excluded
Page 9, line 23 to page 9, line 25					
Page 10, line 2 to page 10, line 5					
Page 10, line 24 to page 10, line 25					
Page 11, line 2 to page 11, line 3					
Page 12, line 9 to page 12, line 11					
Page 14, line 9 to page 14, line 21					
Page 97, line 7 to page 97, line 24	FRE 402/403/701/801				
Page 98, line 10 to page 98, line 25	FRE 402/403/701/801				
Page 99, line 2 to page 99, line 18	FRE 402/403/701/801				

Entered this 2nd of August, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge